

Can Legal Action Affect My Retirement Account?

The actual provisions governing retirement benefits are found in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), and federal laws and rules. This publication is only a summary. If there are any conflicts between the information provided here and what is contained in the law, the applicable law will govern. For legal advice, please consult an attorney or other qualified adviser.

Certain legal actions can require the Department of Retirement Systems (DRS) to pay a portion of your retirement account to another party. This publication describes the different legal actions that may affect your retirement account.

What Legal Actions Can Affect My Account?

Dissolution Orders

A dissolution order is a court order entered at the time of divorce, legal separation, or annulment of marriage that makes a provision for the division of property or for spousal maintenance. RCW 41.50.500 and 41.50.670 through 720 govern the division of retirement benefits as marital property. RCW 41.50.500 through 660 govern the enforcement of spousal maintenance. (To view the RCWs and WACs referenced in this publication, visit the Code Reviser's Web site at <http://slc.leg.wa.gov>.)

Property Division

DRS may be required to pay a portion of your retirement account to satisfy a property division obligation. The order may either:

- Award an interest in your account to your ex-spouse; or
- Split your account into two separate accounts — one for you and one for your ex-spouse — if you are a vested member in a retirement system.

DRS will comply with an order that meets all statutory requirements. For additional information, see “How Can a Property Division Affect My Retirement Account?” (available on the DRS Web site at <http://www.drs.wa.gov>) and WAC 415-02-500 through 550.

Spousal Maintenance

DRS may be required to pay a portion of your retirement account to satisfy a spousal maintenance obligation if:

- **For a withdrawal of contributions** — The dissolution order contains a provision requiring DRS to pay a portion of your accumulated contributions to your ex-spouse upon withdrawal. The dissolution order must contain the exact language set forth in RCW 41.50.550(3).
- **For a monthly retirement benefit** — DRS receives a mandatory benefit assignment order (MBAO) requiring DRS to deliver a portion of your retirement benefit directly to the clerk of the court that issued the MBAO to satisfy an overdue spousal maintenance obligation. Your ex-spouse can seek an MBAO only if you are more than 15 days late in spousal maintenance and for an amount of \$100 or more. The MBAO must contain the exact language set forth in RCW 41.50.590. Payment to an ex-spouse cannot exceed the limits in RCW 41.50.580.

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Child Support Obligations

DRS will pay a portion of your retirement benefit or withdrawal of contributions to satisfy a child support obligation if:

- A superior court issues a wage assignment order for child support under Chapter 26.18 RCW;
- The Department of Social and Health Services (DSHS) issues an order to withhold and deliver under Chapter 74.20 RCW; or
- The DSHS Division of Child Support serves a notice of payroll deduction under Chapter 26.23 RCW.

Federal Court Orders

DRS will pay a portion of your retirement benefit or withdrawal of contributions if required by an administrative or court order authorized by federal law. Such orders can include, but are not limited to, Internal Revenue Service levies and bankruptcy court orders.

When Will My Account Be Affected?

If a property division order requires that your account be split into two separate accounts, the accounts will be split after the order has been filed with and approved by DRS.

For all other legal actions described in this publication, payment can be made to another party only when:

- You receive distribution (either as a monthly allowance or a lump sum); or
- You die.

Are There Fees for Processing Payment?

DRS deducts the following fees for processing payment resulting from legal action.

Type of Order	Processing Fee
Property Division Order	\$75 for the first disbursement and \$6 for each additional disbursement. Fees are divided equally between you and your ex-spouse and deducted from both payments.
Mandatory Benefit Assignment Order	\$25 for the first disbursement and \$6 for each additional disbursement.
Child Support Obligation	\$10 for the first disbursement and \$1 for each additional disbursement.

Will DRS Release Information Regarding My Account?

You may request information about your account in writing. Submit the request to the address shown under *For More Information*. Your request must include:

- Your Social Security number;
- Your retirement system;
- Your mailing address;
- Your phone number;
- Your signature;
- Your marriage date and separation date, if requesting information for a property division order;
- The date you need the information, if applicable.

Another person may request information about your account by:

- Filing a written request, including a signed release from you, authorizing DRS to release the information;
- Serving a subpoena duces tecum on DRS (a subpoena which compels DRS to produce specific evidence in its possession); or
- Filing a public disclosure request for specific information under Chapter 415-06 WAC. In response to a public disclosure request, DRS will send you a certified letter to notify you that the request has been made. To stop the release of information, you must file a court restraining order with DRS within 10 business days from receipt of the certified letter.

Can Other Orders Affect My Account?

DRS cannot comply with a provision in an order that is not specifically authorized by Chapter 41.50 RCW. For example, DRS cannot honor an order that is based solely on a Qualified Domestic Relations Order (QDRO) or any provision that is based solely on the Employee Retirement Income Security Act (ERISA) or the Retirement Equity Act (REA).

Can Payments Be Stopped By a Restraining Order?

A party to a dissolution proceeding may seek a restraining order to stop you from withdrawing contributions or receiving a monthly benefit payment. DRS must comply with a restraining order entered by a court and served on DRS. See RCW 41.50.720.

Does DRS Report Payments to the IRS?

DRS is required to report all retirement payments made during each calendar year (except Plan 1 duty disability and some death benefit payments) to the Internal Revenue Service (IRS). Payments made to your ex-spouse pursuant to a property division order are reported to the IRS as paid to your ex-spouse. All other payments are reported to the IRS as paid to you.

Definitions

The following are definitions of some of the terms used in this publication.

- “Awarding an interest” means a court has awarded another party the right to receive payment of a portion of your monthly benefit or withdrawal of contributions.
- “Dissolution order” means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement as part of a decree of divorce, dissolution, invalidity, or legal separation.
- “Ex-spouse” means a person who is a party to a dissolution order.
- “RCW” refers to the Revised Code of Washington.
- “Splitting an account” means a court has awarded your ex-spouse the right to a separate retirement account that is created by dividing your retirement account.
- “Vested member” means a person who has earned enough service credit to be eligible for a service retirement when he or she meets the applicable age requirements.
- “WAC” refers to the Washington Administrative Code.

For More Information

For additional information about the impacts of property division, please see the publication “How Can a Property Division Affect My Retirement Account?” For information about the rules pertaining to each retirement system and plan, please refer to your Member Handbook available from your employer or DRS. Electronic copies of all DRS publications are available on the DRS Web site at <http://www.drs.wa.gov>.

DRS mailing address

Department of Retirement Systems
Name of your System (PERS, SERS, TRS or LEOFF)
PO Box 48380
Olympia WA 98504-8380

DRS telephone, email and Web contacts

- Outside the Olympia area call toll-free at: 1-800-547-6657
- In Olympia area call: (360) 664-7000
- Send email to: recep@drs.wa.gov
- Visit the DRS Web site at: <http://www.drs.wa.gov>

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